IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal (Ld) No.840 of 2003
in
Summons for Judgment No. 445 of 2002
in
Summary Suit No. 4169 of 2001

1. Mangalam Hardware Stores
and another ..Appellants

vs.

M/s Goodlas Nerolac Paints
Ltd. ...Respondent

Mr.Sanjay Kothari i/b Mr.S.D.Rasal for appellants.
Mr.Shyam Mehta with Mr.Nooruddin Dhilla i/b M/s Hariani & Co. for respondents.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
2nd February,2005

P.C.

1. We have heard the learned Counsel appearing for the parties. Perused the records including the order of the learned single Judge.

2. The learned single Judge has prima facie come to the conclusion that the claim inrespect of the invoices issued prior to 1st October, 1998 appears to be barred by limitation. However, it was also noticed by the learned single Judge that the defendant had issued certain cheques for the total amount of Rs.1,59,981/- Under the second proviso to sub-rule (51) of Rule 3 of Order 37 of the Code of

Civil Procedure the defendant can be granted leave on his depositing the admitted amount for which he has issued the cheque. Therefore, the learned single Judge granted conditional leave to defend subject to the defendant's depositing a sum of Rs.1,59,981/-. We do not see any error of perversity in the order of the learned single Judge. We, therefore, dismiss the appeal. However, time to deposit the amount is extended by a period of six weeks.